THE CODE OF CRIMINAL PROCEDURE (BOMBAY SECOND AMENDMENT) ACT, 1948.

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BOMBAY ACT No. XLVI OF 1948.[1]

[THE CODE OF CRIMINAL PROCEDURE (BOMBAY SECOND AMENDMENT) ACT, 1948.]

[*22nd May 1948.*]

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

V of 1898. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Code of Criminal Procedure (Bombay Second Amendment) Act, 1948.

V of 1898. Insertion of new section 476C in Act V of 1898. 2. In the Code of Criminal Procedure, 1898 (hereinafter called the said Code), in its application to the Province of Bombay, after section 476B the following new section shall be inserted, namely :—

Power to order costs. "476C. A criminal court dealing with an application made to it for filing a complaint under section 476 or 476A, and a court dealing with an appeal under section 476B and the High Court dealing with an application in revision shall have power to make such order as to costs as may be just :

Provided that no such order shall be made against the Government or any public servant acting on behalf of the Government."

Insertion of new Chapter XLIIA in Part IX of Act V of 1898. 3. In Part IX of the said Code, after Chapter XLII the following new Chapter shall be inserted, namely :—

"CHAPTER XLIIA.

OF COSTS TO BE PAID BY THE COMPLAINANT OR INFORMANT.

Power to order costs against complainant or informant. 516AA. (*1*) If in any case instituted upon complaint or upon information given to a police officer or to a magistrate, the accused is ordered to be discharged or acquitted by any court (including a court of appeal or revision) or if in any such case the proceedings are quashed by the High Court by an order made under section 561A and if such court is of the opinion that the complaint was made or the information was given without any reasonable and probable cause, it may, at the time of making such order, if the complainant or informant is present, call upon him forthwith to show cause why he should not be ordered to pay costs to such person ; or if the complainant or informant is not present, direct the issue of a notice to him to appear and show cause as aforesaid.

(*2*) The court shall record and consider any cause which such complainant or informant may show and may make an order directing him to pay the whole or any part of such costs. Such costs may include any expenses incurred in respect of witnesses and of pleader's fees which the court considers reasonable.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 93.

(3) The court may, by the order directing payment of costs under sub-section (2) further order that in default of payment the person ordered to pay such costs shall suffer simple imprisonment for a period not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply. XLV of 1860.

(5) No person who has been directed to pay costs by an order made under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him.

(6) Where any such order is made by a magistrate and the amount directed to be paid exceeds fifty rupees, the complainant or informant may, within sixty days from the date of the order, appeal against it to the court of session.

(7) In cases where the order is appealable under sub-section (6), the costs shall not be paid before the period allowed for the presentation of the appeal has elapsed or, if an appeal is presented, before the appeal has been decided and in other cases the costs shall not be paid before the expiration of one month from the date of the order."